IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.317 OF 2007

Shri. Sharad Bhimrao Sanghavi (Kamble). ..Petitioner.
Vs.
Shri. Swami Vivekanand Shikshan Sanstha
and ors. ..Respondent.

Shri.S.P.Kadam for the Petitioner.
Shri.Amit Borkar for the Respondent No.1.
Shri.S.R.Nargolkar, AGP. for the Respondent Nos.3&4.
Ms. Ushaji Peri i/by Shri. Mihir Desai for the Respondent No.5.

WITH
WRIT PETITION NO.7481 OF 2006

Smita Tanaji Patil. ..Petitioner.
Vs.
Shri. Swami Vivekanand Shikshan Sanstha
and ors. ..Respondents.

Ms. Ushaji Peri i/by Mr. Mihir Desai for the Petitioner.
Shri. Amit Borkar for the Respondent No.1.
Shri. S.P.Kadam for the Respondent No.5.
Shri.S.R.Nargolkar, AGP. for the Respondent Nos.3&4

CORAM: S.B. MHASE &
R.S. MOHITE, JJ.
DATE : 25th April, 2007

P.C.

1. Heard all the Advocates.

2. The petitioner in Writ Petition No.7481 of 2006 and W.P.No.317 of 2007 and the Management of Shri.Swami Vivekanand Shikshan Sanstha which is respondent No.1 in both the petitions have submitted before this court Minutes of the order, duly signed by the parties and

their Advocates. The petitioner in Writ Petition No.317 of 2007 was working with the respondent Management as a lecturer in Sociology. The petitioner in Writ Petition No.7481 of 2006 was working as a lecturer in Sociology with Shivaji More College at Kolhapur. The respondent No.1 is a registered trust and society which runs both Respondent No.2 and 6 colleges. She became surplus with the said Management and therefore, the services of the petitioner in W.P.No.7481 of 2006 were terminated. Therefore, the said petitioner was claiming for an absorption. Since the Dy.Director of Education did not pass an order of absorption, the petitioner approached this court by filing W.P.No.7481 of 2006 in which this court gave a direction that the petitioner be absorbed in the services where the posts are available. It appears that at the relevant time, the petitioner in W.P.No.317 of 2007 was working with the respondent Management allegedly to be shown on clockhour basis but the said Management found that the full time appointment can be made. It appears that under these circumstances, having found that the full time post is available with the respondent-Management, the Joint Director of Education gave a direction to the respondent Management to absorb the petitioner in W.P.No.7481 of 29006 and thereby the petitioner in W.P.No.7481 of 2006 was appointed as a lecturer in Sociology with the respondent Management at Panchgani College where the petitioner in

W.P.No.317 of 2007 was working. As a consequence thereof, the services of the petitioner in W.P.No.317 of 29007 were terminated by the respondent Management without making any reference and giving knowledge to the petitioner in W.P.No.317 of 2007 of the fact that the petitioner in W.P.No.7481 of 2006 is being appointed. Since the services of the petitioner in W.P.No.317 of 2007 were terminated, the said petitioner approached the College Tribunal of Kolhapur by filing Appeal No.12/2005 and the College Tribunal decided the said appeal in favour of the petitioner in W.P.No.317 of 2007 and directed the respondent Management to reinstate the petitioner in W.P.No.317 of 2007. It is to be noted that the petitioner in W.P.No.7481 of 2006 was not a party to the said appeal. However, as a result of the order passed in the said appeal, the services of the petitioner in W.P.No.7481 of 2006 came into difficulty and were likely to be terminated and, therefore, the petitioner in W.P.No.7481 of 2006 filed this petition and obtained an order that the services of the petitioner in W.P.No.7481 of 2006 shall not be terminated. Inspite of the fact that the appeal has been decided in favour of the petitioner in W.P.No.317 of 2007, the appointment of the said petitioner cannot be effected and, therefore, the said petitioner filed W.P.No.317 of 2007 which came before this court wherein it was found that the petitioner in W.P.No.7481 of 2006

is not a party and therefore, ultimately the petitioner in W.P.No.7481 of 2006 was made party respondent to the W.P.No.317 of 2007 and both the writ petitions were taken before this court.

3. While the petitions were being heard, it transpired that there are four posts of lecturers in Sociology available with the respondent Management and, therefore, it was found that both the petitioners can be accommodated in services with the respondent Management.

4. In this back drop of the circumstances, both the petitioners and the Management have arrived at Consent terms (Minutes of the order) which are produced before this court and they are marked Exh."X" for identification. We find that the said consent terms have been arrived at voluntarily by the parties and we accept the said consent terms. Under these circumstances, without going into the comments of the parties, since the parties themselves have settled the matter, it is for the fitness of the Joint Director of Education to give approval to the services of both these petitioners as there is sufficient workload and posts are available with the respondent Management. We, accordingly, direct the Joint Director of Education to give approval to the services of the petitioners in both the petitions. With these observations and directions,

both the petitions are disposed of.

(R.S. MOHITE, J.) **(S.B. MHASE, J.)**